

**FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS**

**RULE 63 (37 C.F.R. 1.63)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**PW
FORM**

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the INVENTION ENTITLED
COMPOSITIONS AND METHODS FOR PLANT GENETIC MODIFICATION

the specification of which (CHECK applicable BOX(ES))
X A. ☐ is attached hereto.
BOX(ES) → B. ☒ was filed on October 6, 2000 as U.S. Application No. 09/680,858
→ C. ☐ was filed as PCT International Application No. PCT/ / on
and (if applicable to U.S. or PCT application) was amended on

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

<u>PRIOR FOREIGN APPLICATION(S)</u>	<u>Country</u>	<u>Day/MONTH/Year Filed</u>	<u>Date first Laid- open or Published</u>	<u>Date Patented or Granted</u>	<u>Priority NOT Claimed</u>
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If more prior foreign applications, X box at bottom and continue on attached page.

Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT international applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

<u>PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)</u>	<u>Day/MONTH/Year Filed</u>	<u>Status</u>	<u>Priority NOT Claimed</u>
<u>Application No. (series code/serial no.)</u>		<u>pending, abandoned, patented</u>	
60/158,033	07 OCTOBER 1999	Pending	
60/173,555	30 DECEMBER 1999	Pending	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, 1100 New York Avenue, N.W., Ninth Floor, East Tower, Washington, D.C. 20005-3918, and telephone number (202) 861-3000 (to whom all communications are to be directed), and the below-named persons (of the same address) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete names/numbers below of persons no longer with their firm and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above Firm and/or a below attorney in writing to the contrary.

Paul N. Kokulis	16773	Kendrew H. Colton	30368	Roger R. Wise	31204	Anthony L. Miele	34393
G. Lloyd Knight	17698	G. Paul Edgell	24238	Michael R. Dzwonczyk	36787	Robert J. Walters	40862
Kevin E. Joyce	20508	Lynn E. Eccleston	35861	W. Patrick Bengtsson	32456	Brian J. Beatus	38825
George M. Sirilla	18221	Timothy J. Klima	34852	Jack S. Barufka	37087		
Donald J. Bird	25323	David A. Jakopin	32995	Adam R. Hess	41835		
Dale S. Lazar	28872	Mark G. Paulson	30793	William P. Atkins	38821		
Paul E. White, Jr.	32011	Stephen C. Glazier	31361	Paul L. Sharer	36004		
Glenn J. Perry	28458	Richard H. Zaitlen	27248	Robin L. Teskin	35030		

(1) INVENTOR'S SIGNATURE: Peter R. Beetham Date: 2/22/2001

First	Middle Initial	Family Name
Peter	R.	BEETHAM
Residence	City	State/Foreign Country
Carlsbad	California	Australia
Mailing Address	City	State/Foreign Country
(include Zip Code)	7128 Tanager Drive, Carlsbad, California	Country of Citizenship
	92009	

(2) INVENTOR'S SIGNATURE: Keith A. Walker Date: 2/23/01

First	Middle Initial	Family Name
Keith	A.	WALKER
Residence	City	State/Foreign Country
San Diego	California	U.S.A.
Mailing Address	City	State/Foreign Country
(include Zip Code)	13315 Roxton Circle, San Diego, California	Country of Citizenship
	92130	

"X" box ☒ FOR ADDITIONAL INVENTORS, and proceed on the attached page to list each additional inventor.
☐ See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. P 049317-272063
(M#)

DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:

(3) INVENTOR'S SIGNATURE: *P. Aivissar*Date: *2/12/2001*

Patricia		L.	AVISSAR	
First		Middle Initial		Family Name
Residence	New Brunswick	New Jersey		Israel
City		State/Foreign Country		Country of Citizenship
Mailing Address		32 Revock Road, New Brunswick, New Jersey		
(include Zip Code)		08816		

(4) INVENTOR'S SIGNATURE:

Date:

First		Middle Initial		Family Name
Residence				
City		State/Foreign Country		Country of Citizenship
Mailing Address				
(include Zip Code)				

(5) INVENTOR'S SIGNATURE:

Date:

First		Middle Initial		Family Name
Residence				
City		State/Foreign Country		Country of Citizenship
Mailing Address				
(include Zip Code)				

(6) INVENTOR'S SIGNATURE:

Date:

First		Middle Initial		Family Name
Residence				
City		State/Foreign Country		Country of Citizenship
Mailing Address				
(include Zip Code)				

(7) INVENTOR'S SIGNATURE:

Date:

First		Middle Initial		Family Name
Residence				
City		State/Foreign Country		Country of Citizenship
Mailing Address				
(include Zip Code)				

(8) INVENTOR'S SIGNATURE:

Date:

First		Middle Initial		Family Name
Residence				
City		State/Foreign Country		Country of Citizenship
Mailing Address				
(include Zip Code)				

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Inventor(s): BEETHAM, Peter R., AVISSAR, Patricia L., WALKER, Keith A.
Appln. No.: 09/680,858 or Patent No.: _____
Filed: October 6, 2000 or Issued.: _____
Title: COMPOSITIONS AND METHODS FOR PLANT GENETIC MODIFICATION

(Atty. Dkt.

049317/272063

M# / Client Ref.

SMALL ENTITY STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(d) and 1.27 (c)) - **SMALL BUSINESS CONCERN**

I hereby state that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:
NAME OF CONCERN ValiGen (US) Inc.
ADDRESS OF CONCERN 300 Pheasant Run

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I her by state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention **entitled:** COMPOSITIONS AND METHODS FOR PLANT GENETIC MODIFICATION **by inventor(s)** BEETHAM, Peter R., AVISSAR, Patricia L. and WALKER, Keith A. described in

- x** → ☐ the specification filed herewith,
one → ☒ Application No. 09/680,858, filed October 6, 2000
box → ☐ Patent No. , issued

If the rights held by the above identified small business concern are not exclusive, each small entity individual, concern or organization having rights to the invention is listed in (A) and (B) below and no rights to the invention are held by any person, other than the inventor, who could not qualify under 37 CFR 1.9(c) as an independent inventor if that person had made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

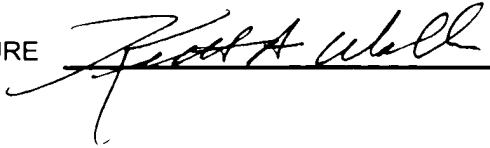
(A) FULL NAME of assignee/licensee/grantee/conveyee* ValiGen (US) Inc.
ADDRESS 300 Pheasant Run, Newtown, Pennsylvania 18940
☐ INDIVIDUAL ☒ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

(B) FULL NAME of assignee/licensee/grantee/conveyee*
ADDRESS
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

*NOTE: Separate statement is required from each person, concern or organization named in (A) and (B) above having rights to the invention, averring to his/her/its status as a small entity. (37 CFR 1.27)

I acknowledge the duty to file, in this case, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

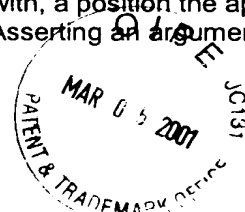
NAME OF PERSON SIGNING Keith A. Walker, Ph.D.
TITLE OF PERSON OTHER THAN OWNER President, Plant and Industrial Products Division
ADDRESS OF PERSON SIGNING 11180 Roselle Street, San Diego, California 92121

SIGNATURE  DATE 2/23/01

Rul 56(a) & (b) = 37 C.F.R. 1.56(a) & (b)
PATENT AND TRADEMARK CASES - RULES OF PRACTICE
DUTY OF DISCLOSURE

- (a) ...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the [Patent and Trademark] Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability... (b) information is material to patentability when it is not cumulative and (1) It also establishes by itself, or in combination with other information, a prima facie case of unpatentability of a claim or (2) refutes, or is inconsistent with, a position the applicant takes in: (i) Opposing an argument of unpatentability relied on by the Office, or (ii) Asserting an argument of patentability

PATENT LAWS 35 U.S.C.



§102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless--

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months* before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

§103. Condition for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. . . .
- (c) Subject matter developed by another person, which qualified as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

* Six months for Design Applications (35 U.S.C. 172).